



## Administrative Assistant to the Selectmen

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To: Selectmen  
From: Stu  
Re: Duties of Chair  
Date: March 25, 2009

Jo asked at the last meeting to have the issue of Board chair be placed on the agenda. Some background information may be in order for the purpose of discussion.

The Maine Municipal Association's Municipal Officer's manual has some pertinent information:

### ***Distinction Between First, Second and Third Municipal Officers***

*Under State law, there is no difference between the first, second, and third selectperson. In fact, these terms are not used at all in State law. In most towns, the distinction results from tradition and custom, and is not written down anywhere. In those towns, the first selectperson does not have any inherent legal authority to draft the warrant, call meetings, or be the board's chair. We recommend that tradition be followed if it works, but if problems arise, then an ordinance should be adopted which clearly specifies the rights and duties of each municipal officer and the manner in which each municipal officer is given his or her particular authority. This can also be done by charter. In any case, unless a town-approved ordinance or a vote of the board has delegated power to one member to act for the board, that person has no power to take action on behalf of the board which would otherwise require a board vote.*

### ***Chairperson of the Board of Municipal Officers***

*Regardless of how or whether the various seats on the board are distinguished, it is necessary to have a chairperson or "chair."*

*A charter or ordinance may designate how the board chair is selected. Otherwise, the municipal officers must choose among themselves who will be chair. Where the board of municipal officers cannot choose their own chair, the town clerk chooses the chair by lot 30-A M.R.S.A. § 2526(4)(D)(1). State law does not discuss the powers and duties of the chair, so each board should either adopt rules which clarify the chair's role or ask the voters to adopt an ordinance covering this issue.*

The Board adopts a policy of its rules and procedures each year. The current procedural document makes reference to the chair as follows:



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### **Section 2. Officers; Duties**

*Officers of the Board shall consist of a Chairman to be chosen annually at the first regular meeting in each year by and from among Board members unless otherwise provided by law. The Chairman shall preside at all Board meetings and shall have authority to rule on questions of evidence and procedure, to maintain order and determine the course of proceedings, and to take such other action as may be necessary and not inconsistent with these rules or other law to enable the Board to perform its duties and conduct its affairs.*

*The Board employs an Administrative Assistant who serves as the Board's Secretary. The Secretary shall, in consultation with the Chairman, set the agenda for each meeting. In the absence of the Chairman, the Vice-Chairman shall be selected by the members present, and shall preside and shall have the same authority as the Chairman. The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board, which shall be a public record except as otherwise provided by law.*

Additionally, the chair is referenced in a couple of other sections of the rules:

*Special meetings may be called at the discretion of the Chairman or upon the request of a majority of the Board, provided, however, that notice thereof shall be given to each member and to representatives of the press at least 24 hours in advance and that no business may be conducted other than as specified in said notice.*

*...The order of business at regular meetings shall be set by the agenda at the discretion of the Secretary in consultation with the Chair.*

*.....The Chairman shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed. The Board may receive any oral or documentary evidence but shall exclude irrelevant, immaterial or unduly repetitious evidence, provided, however, that formal rules of evidence shall not apply. Every party shall have the right to present its case in the order determined by the Chairman and without interruption, provided, however, that the Chairman may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard. In any adjudicatory proceeding, including proceedings on licenses, permits or other approvals, every party shall also have the right to submit rebuttal evidence and to conduct cross-examination of any other party through the Chair, provided however, that the Chairman may impose such other reasonable limitations as may be necessary to prevent an abuse of process.*



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*All members who are present and not disqualified as provided herein shall vote in every matter to be voted upon unless excused by the Chairman for good cause shown.*

I'm not sure what other information you need in regard to a chair. From my standpoint it is helpful to have a single point of contact in emergency situations. If I'm seeking the opinion of all five members outside of a public meeting, that is likely a violation of the right-to-know law, not to mention very cumbersome in a true emergency.

stu